

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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IN RE PHARMACEUTICAL INDUSTRY)	M.D.L. No. 1456
AVERAGE WHOLESALE PRICE)	Civil Action No. 01-12257-PBS
LITIGATION)	
_____)	

MEMORANDUM AND ORDER

February 17, 2005

Saris, U.S.D.J.

Defendant Amgen, Inc. has moved to dismiss Plaintiffs' Corrected Amended Master Consolidated Complaint ("CAMCC") filed on July 16, 2004, on the ground that Plaintiffs have again failed to comply with Rule 9(b). In this iteration of their Complaint, Plaintiffs allege the allegedly fraudulent AWP's and the spreads for particular drugs in Appendix A (¶¶ 223A-B, 224A, 226A-27A), statements from Amgen sales representatives to providers promoting the use of spreads (¶¶ 221-22A, 224), a competitive marketplace (¶¶ 218-19A, 223), and specific documents from competitors discussing the existence and amount of spreads on Amgen drugs (¶¶ 225A-B). The motion to dismiss is **DENIED**.

S/PATTI B. SARIS

United States District Judge